Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

WRITTEN TESTIMONY OF

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U.S. DEPARTMENT OF COMMERCE

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INTRODUCTION

Good morning Mr. Chairman and members of the Subcommittee. My name is Sally Yozell and I am the Deputy Assistant Secretary for Oceans and Atmosphere for the National Oceanic and Atmospheric Administration (NOAA). I want to thank you for the opportunity to testify today on H.R. 1775, the Estuary Habitat Restoration Partnership Act of 1999.

NOAA AND ESTUARY HABITAT RESTORATION

We appreciate the Committee's leadership in focusing on the need to protect the Nation's estuarine and coastal resources. Estuaries are an important part of our Nation's economic and environmental well-being. These special coastal places provide habitat for many important species, act as a natural water treatment system, provide flood control and protection against storm damage, and are wonderful recreational areas. Estuaries and coastal wetlands also provide essential habitat for 80-90% of our recreational fish catch and 75% of the Nation's commercial harvest.

These natural systems are in trouble. Estuaries are suffering from water quality problems, declining habitat quality and, in some areas, significant habitat loss. We desperately need to restore these areas to help replace habitat that fish, marine mammals and endangered species need to survive and prosper.

Restoration, however, is only part of the answer for degraded estuary and coastal habitats. The other part is to prevent habitat loss and degradation through sound conservation and management programs. Nonetheless, there are many instances where restoration is the only viable alternative. We believe that NOAA's expert scientific capabilities and experience in estuary and coastal restoration programs can contribute significantly to achieving the goals of H.R. 1775, especially when coupled with the science and expertise of other Federal agencies and our state and local partners. As the Nation's premier marine and coastal science and management agency, NOAA brings together a unique combination of scientific expertise and capabilities, a combination which is needed for successful restoration of our valuable estuaries and coastal waters.

H.R. 1775 ESTUARY HABITAT RESTORATION PARTNERSHIP ACT OF 1999

I now would like to focus my remarks on several specific issues that the Subcommittee has asked NOAA to address.

• How will H.R. 1775 impact existing NOAA habitat restoration programs?

NOAA believes that H.R. 1775 will serve to complement existing habitat restoration programs in a number of ways. The national Estuary Habitat Restoration Council will help to ensure coordination and cooperation with all Federally-sponsored estuarine habitat restoration efforts. The estuary habitat restoration strategy called for in H.R. 1775 should aid in keeping these programs focused on the highest priority restoration needs. We also anticipate that some restoration projects supported under H.R. 1775 can be designed in such a way as to complement those conducted by NOAA. Finally, we recognize that restoration science is still quite young and as such, the restoration efforts under this bill would enhance this body of science, especially if H.R. 1775 encourages the application of innovative science and technology in its supported restoration projects.

• What is NOAA's view on the structure of the proposed councils?

NOAA believes that a collaborative approach to decision making is important. The proposed national Estuary Habitat Restoration Council should provide for improved cooperation among Federal agencies. Our experience with collaborative efforts such as those being conducted as part of the South Florida Ecosystem Restoration Initiative, the Coastal Wetlands Planning, Protection and Restoration Act and Coastal America programs has demonstrated time and time again that success comes more easily when Federal agencies work together.

NOAA supports the intent of H.R. 1775 to seek out and obtain the involvement of coastal states, estuary and coastal managers, local governments, and constituents in the proposed program. Regional and local involvement in national decision-making and priority setting is critical and should be encouraged in any legislation for estuary restoration. However, NOAA is concerned that the formal nature and structure of the proposed Regional Councils could divert limited resources away from restoration projects and slow decision making. We suggest the use of regional or area workshops or advisory panels. Advisory panels are especially attractive in that they could have short or long term durations, depending on the issue or issues being addressed, and the Secretary or Council could have the flexibility to select the appropriate mix of people to serve on the panels. We have had good success with advisory panels in the management and conservation of marine resources and believe that they could help serve the needs of H.R. 1775, as well. Representatives of the regional advisory panels also could serve as ex-officio members of the national Estuary Habitat Restoration Council. We note that an August 11, 1999, Department of Justice letter outlines the Administration's concerns with a potential constitutional problem under the Appointments Clause, and

we defer to the Department of Justice regarding this issue.

• What types of restoration activities could be conducted if H.R. 1775 is enacted?

Habitat restoration activities could include improvement of coastal wetland tidal exchange or reestablishment of historic hydrology, dam or berm removal, fish ladder or other fish passageway improvements, natural or artificial reef/substrate/habitat creation, establishment of riparian buffer zones and improvement of freshwater habitat features that support anadromous fishes, planting of native coastal wetland and submerged aquatic vegetation, and removal of invasive vegetation. Additionally, we recommend that the habitat restoration activities include a significant research component to promote the development of innovative approaches and techniques for estuary habitat restoration. There should be a major monitoring and evaluation phase for all restoration projects, as this is the only way to gauge restoration success and advance the science of estuary restoration.

• What does NOAA see as its main role under HR 1775? Does the bill provide sufficient funding and direction to carry out these activities?

NOAA sees its major role in H.R. 1775 as a contributor of the science and technology we have gained over the years in habitat restoration and in the investigation of our many coastal and estuarine ecosystems. Additionally, we see a critical role in ensuring coordination of our ongoing restoration programs with those of H.R. 1775 to minimize redundancies and to complement and capitalize on the achievements of all of the programs. We endorse the specific area of work specified for NOAA in H.R. 1775 which is to serve on the National Council and to directly support restoration efforts through the collection and management of data related to the restoration projects.

The funding as proposed in H.R. 1775 is probably adequate to address NOAA's role in establishing a monitoring database. NOAA currently is not funded and staffed to adequately support the Councils and provide the increased technical assistance that would be necessary to meet the needs from partners. We want the majority of funding under the bill to go toward

on-the-ground restoration activities. However, we hope the Congress will provide a reasonable amount of funding to the Federal agencies to enable us to effectively implement this Act. We support the bill's subdivision of the authorization section, providing separate subsections for each of the following: an authorization of appropriations for restoration activities; monitoring; and a cap on administrative expenses. This is similar to the approach under the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA).

• To what extent does NOAA currently participate in estuary habitat restoration efforts? Which programs are involved and what has the agency done to coordinate its efforts with other agencies?

NOAA is engaged in a wide range of estuary habitat restoration efforts. I will briefly summarize each of the major activities in four categories as well as their coordination with other agencies.

COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION ACT

The Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) provides funding and support for the restoration, protection, conservation and enhancement of threatened wetlands in the Louisiana coastal zone. NOAA and the other participating Federal and State agencies have the opportunity to plan and

implement large-scale coastal wetlands restoration projects that are significant on a local and national level. Forging partnerships within the State such as with the Louisiana Department of Natural Resources and local parish governments has proven critical to the success of the restoration projects. It has resulted in funding for 17 restoration projects totaling over $65 million that are designed to address the rapid loss of Louisiana's wetlands. For NOAA and the State of Louisiana, CWPPRA provides the hope of sustaining coastal wetlands that are important to the economic, recreational and cultural base of the State and region.

As required by CWPPRA, the U.S. Army Corps of Engineers established a Task Force composed of the U.S. Environmental Protection Agency (EPA), the Department of Commerce, the Department of the Interior, the Department of Agriculture, and the State of Louisiana. The Task Force annually prepares and submits to Congress a priority list of wetland restoration projects for Louisiana. The site selection process is based on the technical merit, cost effectiveness, and predicted wetland quantity and quality of the proposed project. The Task Force was responsible for the preparation of a comprehensive coastal Restoration Plan for the State of Louisiana, which was completed at the end of 1993. The Plan provides much of the basis for selecting restoration projects.

Each CWPPRA project requires the sponsorship of a Federal agency Task Force member for implementation. The Act uses a trust fund, which is supported by revenues from tax receipts on small engines and other equipment. Of the amount appropriated from this fund, 70% (an amount not to exceed $70 million annually) is available for wetland restoration projects and associated activities in Louisiana. While some 70% of the funds available under CWPPRA are dedicated to restoring Louisiana wetlands, it is important to note that project selection is still based on merit criteria. CWPPRA mandates a cost-share of 85% Federal funds to 15% State funds for all projects.

RESTORING ESTUARIES THROUGH TRUSTEESHIP

As a coastal steward and a designated natural resource trustee under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund), and the Oil Pollution Act, NOAA protects and restores marine and coastal resources on behalf of the public. NOAA works at hazardous waste sites with the EPA and other clean-up agencies to develop remedies to protect coastal resources, and to support habitat and human health. NOAA's Coastal Resource Coordination program works at approximately 260 hazardous waste sites a year, about 75% of which affect estuaries. Examples of on-going protection and restoration efforts in estuarine environments include the Tulalip Landfill in Puget Sound in Washington, the Exxon Bayway oil spill in the Arthur Kill in New York Harbor, the *Apex Houston* Oil Spill in Point Lobos, California, and the Greenhill oil spill in Louisiana.

NOAA's Damage Assessment and Restoration Program (DARP) restores coastal and marine resources injured by releases of oil and other hazardous materials. Since its inception, DARP and its partners have generated more than $240 million in settlement funds to restore injured coastal resources on behalf of the public from those responsible for the damage.

Through DARP, NOAA is working on a number of damage assessment cases in estuarine environments including Lake Barre in Louisiana,, Commencement Bay in Washington, Narragansett Bay in Rhode Island, Lavaca Bay in Texas, and Pago Pago Harbor in American Samoa. By working together with responsible parties and co-trustees to collect data, conduct assessments and carry out restoration actions, NOAA is able to restore a clean and healthy environment as quickly and effectively as possible. Most of these restoration projects are completed through cooperation with both Federal and state resource trustee agencies. This experience has reinforced the importance of partnerships and the absolute need to document restoration

success for the benefit of future restoration efforts.

NOAA's trustee activities ensure that resources are protected and restored following releases of oil and other hazardous materials, which results in more productive and diverse estuarine habitat for fish and wildlife, cleaner water, and healthier ecosystems.

COMMUNITY-BASED RESTORATION PROGRAM

In 1996, the NOAA Fisheries Restoration Center formulated the highly successful Community-Based Restoration Program (CRP). The CRP achieves habitat restoration by engaging communities in local marine and estuarine habitat restoration projects. It provides funding and technical expertise to restore coastal habitat and partners with local constituencies to accomplish meaningful, grass roots projects. In addition to seed money, the CRP provides support by leveraging expertise and funds from partner organizations. Through these partnerships, the program generates funding up to tenfold the original Federal investment. Moreover, the program seeks to promote coastal stewardship and a conservation ethic among coastal communities.

The Administration's FY2000 Budget Request includes $22.7 million of new funding for the restoration of coastal habitat. Seven million is slated for expanding the existing CRP. Almost $16 million is identified for implementing habitat restoration on a regional basis through the creation of a new, regional habitat restoration program.

NATIONAL ESTUARINE RESEARCH RESERVES

Realizing the importance of our Nation's estuaries, Congress established the National Estuarine Research Reserve System (NERRS) in 1972 to improve the health of estuaries and coastal habitats. This Federal/state partnership has proven successful in managing some of our Nation's relatively pristine estuaries. Through the work of expert staff, monitoring and education programs and on-site laboratories, NOAA has developed innovative partnerships with coastal states in connection with 25 Reserves, which have resulted in improved management of nearly one million acres of estuarine waters and lands.

Although the Reserves represent some of the Nation's most valuable and relatively undisturbed estuaries, restoration in the Reserves around the Nation is still an essential activity to protect these biologically diverse areas. To date, many of the Reserves have undertaken innovative restoration projects. For example, the Chesapeake Bay Reserve in Maryland is working to address erosion and habitat loss. Areas of the Chesapeake Bay region are severely eroding from impacts of sea level rise. In an effort to deter erosion, the Reserve is currently evaluating Maryland's policies concerning the removal of invasive marsh grasses, a traditional restoration practice. An evaluation and revision of current State policies relating to salt marsh grass management in certain regions around the Chesapeake Bay may result from this work. The South Slough Reserve near Coos Bay, Oregon, has conducted restoration activities at two sites that were experiencing significant subsidence and ditch erosion. By redistributing organic material over the surface of the marsh, the Reserve was able to restore habitat used by salmon and other fish. Indicators of healthy marsh ecosystems were monitored at all the restored sites. Further work is being designed to examine different techniques for developing tidal channel habitat for salmon and other fish.

To further improve our Nation's estuaries, NOAA and the University of New Hampshire established the Cooperative Institute for Coastal and Estuarine Environmental Technology (CICEET), which serves as a national center for the development and application of innovative technology for restoration. CICEET uses

the Reserves as living laboratories and is currently supporting several projects that apply innovative technologies to coastal habitat restoration.

SOUTH FLORIDA ECOSYSTEM RESTORATION

Another example where large scale habitat restoration will be carried out is in South Florida. In July, 1999, the Army Corps of Engineers and the South Florida Ecosystem Restoration Task Force presented to Congress a $ 7 billion, 20 year plan to restore more natural water flows throughout the South Florida ecosystem. Restoring natural flows to the estuaries is the single most important action needed to restore the hundreds of South Florida estuaries that have been severely damaged over the past century by man-made changes in the quantity, quality and timing of freshwater delivery to the coast. The proposed plan will restore natural flows to almost all the remaining estuaries in South Florida and significantly advance overall restoration of these valuable habitats. NOAA played a key role in helping shape the restoration plan for South Florida's estuaries and other coastal areas. Working with the State of Florida and federal agencies, NOAA will also play a key role in monitoring the progress and results of the overall South Florida ecosystem restoration effort, much of which will focus on coastal estuaries.

• What role does NOAA anticipate for National Estuarine Reserves under HR 1775?

NOAA anticipates that the National Estuarine Research Reserves will play an important role in any effort to restore estuaries. The Reserves are located in 20 of 29 biogeographic subregions (including the Great Lakes), serving as representative areas to conduct research, monitoring and education on a number of topics, including habitat restoration. Restoration projects undertaken in estuaries in these same regions can use the lessons learned from the Reserves to improve restoration activities and techniques. National Estuarine Research Reserves provide many key opportunities for better estuarine habitat restoration in the Nation.

The Reserves provide lessons in ensuring the long-term success of restoration projects by taking watershed issues into consideration. Through management plans and other planning mechanisms, restoration is not undertaken in areas where activities upstream would cause degradation to restoration, thereby jeopardizing the success and viability of the projects.

One of the key opportunities that the Reserve System offers is to learn more about which restoration techniques are most effective. The ability to use reference locations within the Reserves as a basis for comparison--not only for Reserve projects, but also for projects in similar estuaries--will strengthen the science of restoration. The data sharing and the System-wide monitoring that are characteristic of the Reserves provide increased opportunities for useful comparisons within the Reserve System and with other estuarine projects.

H.R. 1775 recognizes that the Reserve System can play an important role and build upon their success from past estuarine habitat restoration projects by allowing the Council to give priority consideration to restoration needs within the Reserve System. This priority consideration comes about as part of the guidelines established for the Estuary Habitat Restoration Council in selecting sites. Since each Reserve develops a management plan that identifies restoration priorities, the Reserves qualify for priority consideration under Section 107(d)(1) when determining restoration projects.

Finally, Reserves are owned and operated by the states in partnership with NOAA and in cooperation with local communities. This Federal-State partnership helps to ensure that state preferences for estuarine habitat restoration are properly coordinated and that these priorities also incorporate local concerns and issues.

Additional comments on H.R. 1775, the Estuary Habitat Restoration Partnership Act of 1999.

In addition to the questions posed by the Subcommittee, NOAA would like to address several other aspects of the H.R. 1775.

• NOAA agrees that priority should be given to restoration projects in areas that have area-wide restoration plans currently in place. These plans, which identify restoration goals, sites and priorities, need to be based on sound science to enable scientists to determine which efforts would most benefit the ecosystem and fit best within the socioeconomic conditions of the area.

• NOAA supports the priority given to estuarine areas that already have strong and effective programs to manage point and nonpoint pollution and other activities that can adversely impact estuarine areas. These programs will help to ensure the long-term success of the restoration projects.

• NOAA strongly suggests that the Great Lake states and the island territories and commonwealths (American Samoa, Commonwealth of Northern Marianas Islands, Guam, Puerto Rico, and the U.S. Virgin Islands) be eligible for assistance as they have important estuarine habitats that need restoration.

• Consultation with state Coastal Zone Management programs should be mandatory to ensure consistency with state CZM policies, especially during development of state or local restoration strategies and during reviews of locally or privately sponsored project proposals. Early consultation with state CZM programs will result in a more streamlined process.

CONCLUSION

In conclusion, as the Nation's primary marine science agency, NOAA has the proven expertise and scientific capability to assist in making sound decisions about estuarine habitat restoration. The primary lesson we have learned from our restoration activities thus far is the importance of strong science and long-term monitoring to achieve successful estuarine restoration.

I believe the Subcommittee has taken an important step in addressing these significant issues by holding this hearing today. We applaud the Subcommittee's leadership and commitment to protecting our Nation's estuarine and coastal resources and we look forward to working with you.

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